

SAN FRANCISCO PAID PARENTAL LEAVE ORDINANCE (PPLO) May 7, 2018

Thank you for joining us! We will begin shortly.

This webinar will be recorded.

Please mute your phone when you are not asking a question.

*Use (keypad *6) to mute or unmute*



OVERVIEW OF TODAY'S WEBINAR

Speakers

Jenna Gerry, Attorney
Work & Family Program
Legal Aid at Work

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Senior Administrative Analyst
City and County of San Francisco
Office of Labor Standards Enforcement

Overview of Today's Presentation

- ☐ What is the Ordinance
- ☐ Who is covered
- ☐ How to apply
- ☐ How this interacts with other State and Federal laws
- ☐ How to calculate what is owed to an employee
- ☐ 2018 Changes



What is the Paid Parental Leave Ordinance?

- Passed unanimously by Board of Supervisors on April 21, 2016
- First of its kind in the United States
- Requires employers to supplement an employee's California **Paid Family Leave** (PFL) benefits
- Provides eligible employees **working in San Francisco** with **6 weeks fully paid** leave to bond with a new child (newborn, adoptive, or foster)

SF mandates up to six weeks of fully paid parental leave



Kim Turner and daughter Adelaide Turner Winn, 2, attend a news conference in support of paid parental leave rights at City Hall before the Board of Supervisors voted on Supervisor Wiener's paid parental leave ordinance Tuesday April 5, 2016. The legislation will make San Francisco the first city in the country to require fully paid parental leave for employees. (Emma Chiang/Special to S.F. Examiner)

By Joshua Sabatini on April 5, 2016 2:48 pm



San Francisco became the first city in the U.S. to allow new parents to take time off from work without taking a pay cut with Tuesday's

Trending Articles

SF mandates up to six weeks of fully paid parental leave

Woman charged with embezzling money from St. Ignace volunteer committee

End of an era: KGO Radio lays off news staff

Mayor's office to claim \$5 million in overpaid traffic citations

Happy 100th birthday to Herb Caen, with a twist

When your child has cancer, St. Jude is where hope begins.

Donate Now



COVERED EMPLOYER

- Applies to employers worldwide that have employee(s) who work(s) in San Francisco
- Employ Threshold Number of Employees:

➡ January 1, 2018 20+ employees worldwide ←

- An Employer with fluctuating workforce – number of employees goes **up and down** over time –should average employees over PPLO Lookback period (12 weeks or 3 months – See Slide 7)

Note: Government entities are not covered employers

COVERED EMPLOYEE

1. Works in **San Francisco**
2. Commenced work for a covered employer at least **180 days** before leave period
3. Work at least **8 hours per week in San Francisco** for a covered employer
4. Work in San Francisco at least **40% of weekly hours** for a covered employer
5. Apply for and receive California **Paid Family Leave (PFL)** benefits from the **Employment Development Department (EDD)**

Note: Government employees are not covered.

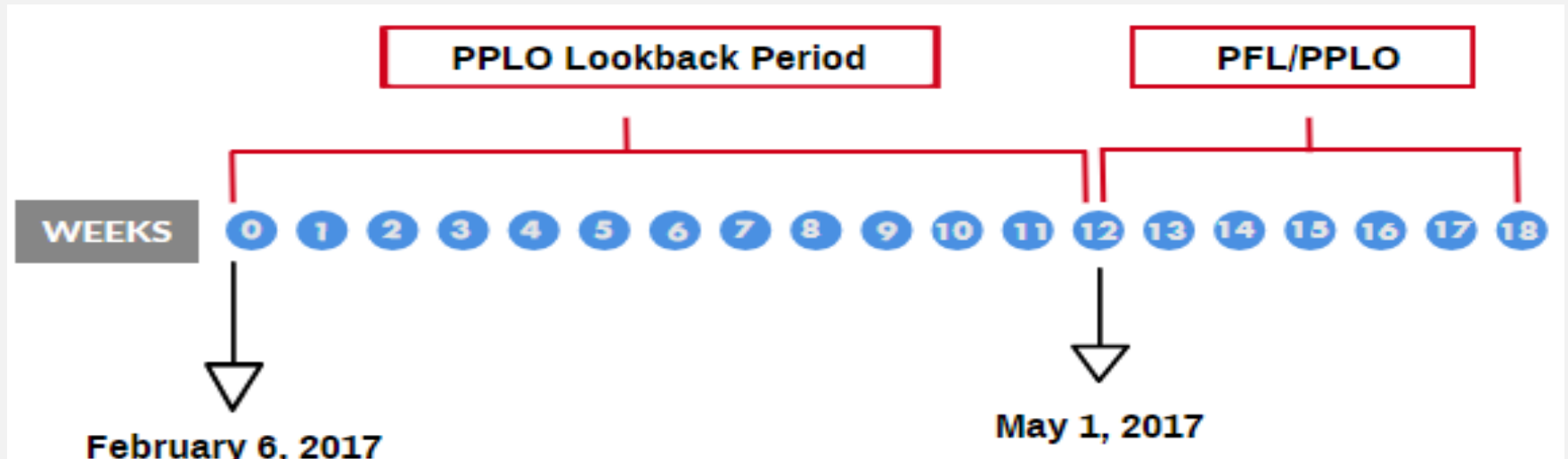


KEY TERM: PPLO LOOKBACK PERIOD

- The 12 weekly, 6 semi-monthly or bi-weekly, or 3 monthly pay periods before the first day of an employee's leave
- Is used to determine if an **employer** is covered when the number of employees fluctuate
- Is used to determine if an **employee** is covered when hours fluctuate
- Is used to calculate the **average normal weekly wage** when wages fluctuate.

PPLO LOOKBACK PERIOD

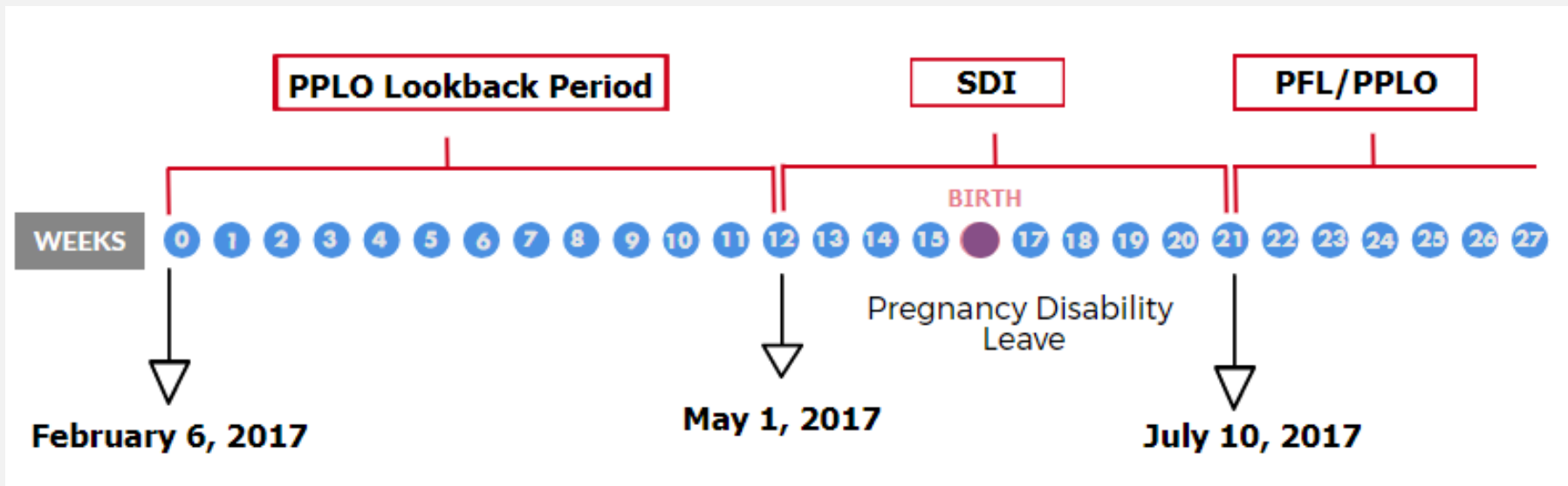
FOR NON-BIRTH PARENTS



*PPLO Lookback Period is **February 6, 2017 – April 30, 2017** (12 weeks prior to May 1, 2017).

PPLO LOOKBACK PERIOD

FOR BIRTH PARENTS TRANSITIONING FROM PREGNANCY DISABILITY LEAVE



*PPLO Lookback Period is **February 6, 2017 – April 30, 2017** (12 weeks prior to May 1, 2017).

4 STEPS FOR EMPLOYERS

#1

Give Notice to
Employees

#2

Give
Employee(s) SF
Paid Parental
Leave Form (SF
PPL Form)

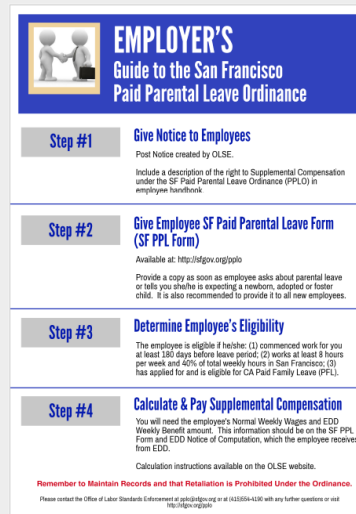
#3

Determine
Employee's
Eligibility

#4

Calculate & Pay
Supplemental
Compensation

More Detailed Step-by-
Step Guide Available on
[OLSE Website](http://olse.org)



4 STEPS FOR EMPLOYEES

#1

Apply for CA Paid Family Leave (PFL) Benefits

#2

Complete SF Paid Parental Leave Form (SF PPL Form)

#3

Submit SF PPL Form & EDD Notice of Computation to Employer(s)

#4

Notify Employer When You Receive First PFL Payment

More Detailed Step-by-Step Guide Available on [OLSE Website](#)



EMPLOYEE'S
Guide to the San Francisco
Paid Parental Leave Ordinance

Step #1 Apply for CA Paid Family Leave (PFL) Benefits
Online or paper application through Employment Development Department (EDD).
Be sure to check the box allowing EDD to disclose your benefit amount.

Step #2 Complete SF Paid Parental Leave Form (SF PPL Form)
Form is available on the OLSE Website and should be provided by your employer.
If you have multiple employers, complete a form for each employer.

Step #3 Submit SF PPL Form & EDD Notice of Computation to Employer
When you apply for PFL benefits, the EDD will send you a Notice of Computation that includes your weekly benefit amount.

Step #4 Notify Employer When You Receive First PFL Payment
If requested, provide your employer with the EDD Notice of Payment (also known as the Electronic Benefit Payment Notification).

STOP: Your Application is Now Complete!

Please contact the Office of Labor Standards Enforcement at oelsd.org or at (415) 694-4350 with any further questions or when at oelsd.org.

SAN FRANCISCO PAID PARENTAL LEAVE FORM (SF PPL FORM)

CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE, MAYOR

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF LABOR STANDARDS ENFORCEMENT
PATRICK MULLIGAN, DIRECTOR



SAN FRANCISCO PAID PARENTAL LEAVE FORM

Complete one form for each employer. If you have only one employer, you only need to complete Sections 1, 2, and 3 of this form. If you have more than one employer, fill out Section 4 on page 2.

Section 1. Employment Information

Employee

Name/Address:

(Please print) Street City State Zip

Employer:

(Name)

Section 2. Employer Notification. For prompt payment of benefits, select both options. Check all that apply:

Option 1. ☐ I am submitting a copy of my EDD Notice of Computation to my employer(s); and/ or

Option 2. ☐ I have checked the box on my EDD Claim for Paid Family Leave (DE 2501F) granting permission to disclose my benefit payment to my employer(s).

Section 3. Reimbursement Agreement. In order to receive Supplemental Compensation under the San Francisco Paid Parental Leave Ordinance (PPLO), employees must agree in writing to reimburse their employers if they voluntarily separate from employment within 90 days of the end of their leave period. Failure to sign this agreement renders you ineligible to receive Supplemental Compensation under the PPLO. [See S.F. Police Code Sec. 3300H.4(e).]

I, _____ [full name], hereby agree to reimburse the full amount of Supplemental Compensation received from any Covered Employer(s) under the San Francisco Paid Parental Leave Ordinance if I voluntarily separate from employment within 90 days from the end of my leave period and if my employer requests such reimbursement in writing.

Employee Signature: _____ Date: _____

Employer Signature: _____ Date: _____

If you only have one employer, this form is complete.

Only complete Section 4 if you have more than one employer

Section 4. Multiple Employers. If you have more than one employer, you must complete either Option A or Option B of this section, or your employers will not be required to provide Supplemental Compensation under the PPLO.

Option A: Ask each employer for your normal gross weekly wages and reported tips, if any, and enter the amount in the grid for each employer:

Employer	Normal Gross Weekly Wages	Average Weekly Tips
1		
2		
3		

Option B: For each employer, fill in your pre-tax earnings below. Include information for the 6 bi-weekly, 6 semi-monthly or 12 weekly pay periods that immediately precede your leave period. If you were on unpaid or partially paid leave for any of those pay periods, do not include those pay periods in the grid. Instead, include earlier pay periods during which you were fully paid. Provide 6 total – or 12 total – in the chart for each employer.

Employer 1				Employer 2				Employer 3			
Pay Period	Start Date	Wages	Tips	Pay Period	Start Date	Wages	Tips	Pay Period	Start Date	Wages	Tips
1				1				1			
2				2				2			
3				3				3			
4				4				4			
5				5				5			
6				6				6			
7				7				7			
8				8				8			
9				9				9			
10				10				10			
11				11				11			
12				12				12			

I declare under penalty of perjury that the foregoing wage and employer information is true and correct.

Employee Signature: _____ Date: _____

Your employer has the right to request proof of wages from other employers listed above.

SUBMIT A COMPLETED FORM TO EACH OF YOUR EMPLOYERS

[Dec 2016 REV]

INTERACTION WITH STATE & FEDERAL LAWS

PAID FAMILY LEAVE (PFL)



- **Employee Funded** State Benefit
- **6 WEEKS** OF PARTIAL WAGE REPLACEMENT WHILE:
 - ✓ Caring for a seriously ill close family member; or
 - ✓ **bonding with a newborn, adopted or foster child**
- **55%** of weekly wage, up to \$1,173 per week for **claim dates** in 2017
- **60%** or **70%** of weekly wage, up to \$1,216 per week for **claim dates** in 2018
- ***Both Parents Can Take at the Same (or different) Time***
- Can be taken **Intermittently** or all at once
- ***Must be taken within 1 year of birth or placement of child in the home***
- ***In 2018 no more one week waiting period.***

CALIFORNIA PREGNANCY DISABILITY LEAVE (PDL)



Up to 4 months job-protected, unpaid leave, while disabled by pregnancy, childbirth or related condition

- Applies to all employers with **5+ employees**
- Can be used for prenatal care
- Can be taken intermittently
- Continuation of health benefits

Normal Pregnancy: disability is **4 weeks** before due date and **6 to 8 weeks** after delivery.

FAMILY MEDICAL LEAVE ACT (FMLA) CALIFORNIA FAMILY RIGHTS ACT (CFRA)



12 weeks of job-protected leave to:

- **Bond with** a new child (including adoptive and foster children)
- **Care for a family member** with a serious health condition
- For your **own serious health condition**

Eligibility

- **1 year on the job**
- **50 + employees**
- **1,250 hours in the prior year**

***For birth parents, bonding leave does not start until after they have recovered from pregnancy disability.**

NEW PARENT LEAVE ACT (NPLA)

*STARTING JAN. 1, 2018

12 weeks of job-protected leave to:

- **Bond with** a new child (including adoptive and foster children)

Eligibility

- 1 year on the job
- **20 - 49 employees**
- 1,250 hours in the prior year

*For birth parents, bonding leave does not start until after they have recovered from pregnancy disability.

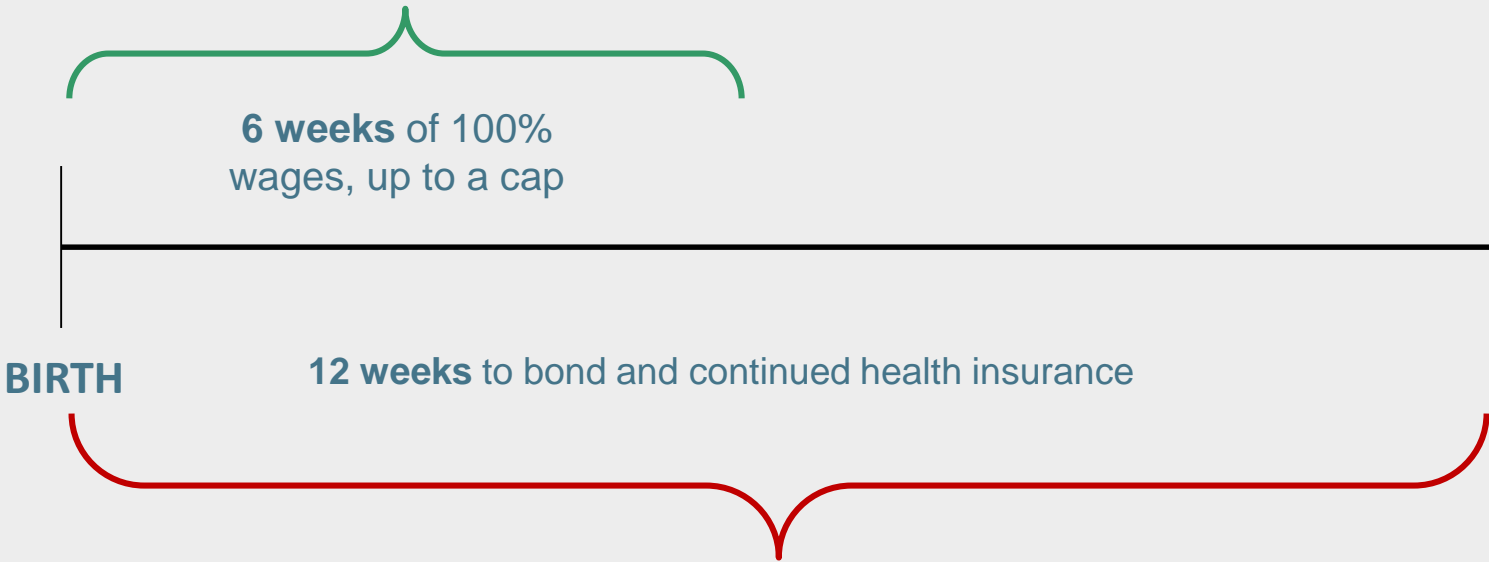



****PFL/PPLO Benefits Run Concurrently with NPLA**

HOW IT ALL FITS TOGETHER: JOB-PROTECTION AND WAGE REPLACEMENT FOR NON- BIRTH PARENTS

FMLA/CFRA or NPLA Eligible Non-Birth Parent working in San Francisco :

Paid Family Leave/PPLO Supp. Comp.



6 weeks of 100% wages, up to a cap



BIRTH

12 weeks to bond and continued health insurance

**Family Medical Leave Act/
California Family Rights Act/
New Parent Leave Act**

HOW IT ALL FITS TOGETHER: JOB-PROTECTION AND WAGE REPLACEMENT FOR A “NORMAL” PREGNANCY

FMLA/CFRA or NPLA Eligible Birth Parent working in San Francisco

State Disability Insurance

Paid Family Leave/PPLO Supp. Comp.

10 Weeks of
60% or 70% Wages

6 Weeks of
100% Wages, up to a cap

4 Weeks Prior
to due date

6 Weeks to
Recover

12 Weeks to Bond and
continued health insurance

BIRTH

Pregnancy Disability Leave/
Family Medical Leave Act

California Family
Rights Act/ New
Parent Leave Act



WHAT IF MY EMPLOYEE DOES NOT QUALIFY FOR FMLA/CFRA OR NPLA?

- **No Retaliation Under Ordinance:**

Although the PPLO does not explicitly require employer to provide an employee with 6 weeks off to bond with a new child, it contains very robust anti-retaliation provisions, which prohibit retaliating against an employee for exercising any of his/her rights under the ordinance. 3300H.7

- **Employer Must Still Pay Supplemental Compensation:**

If an employer terminates an employee during his/her leave period or within 90 days of notifying employer of intent to apply for /use PFL, employer must still pay employee Supplemental Compensation for his/her entire leave. 3300H.4(b) 3 and 4

Existing Paid Parental Leave Policy – Does it Comply?

Existing Plans MUST:

- Provide 6 weeks of fully paid parental leave **for bonding** in the 12 months after birth of child or foster placement or adoption.
- Be available **for any covered employee**
- Be either fully funded by the employer or integrated with EDD wage replacement benefits
- Allow **employee to choose** to take the leave consecutively or intermittently

Supplemental Compensation

The Basics

- Sum of the **EDD PFL benefit** and the **Supplemental Compensation** equals 100% of normal gross weekly wages, capped by the ordinance.
 - **\$2,133 cap for a 2017 claim effective date**
 - **\$2,027 cap for a 2018 claim effective date**
- Employers may require employee to agree to use up to **2 weeks** of accrued, unused **vacation** to cover Supplemental Compensation payments (3300H.4(b)(5))
- For Paid Time Off (PTO) Plans that do not distinguish between sick and vacation, the employer may require the employee to agree to use up to two weeks accrued PTO **only in excess of 72 hours** (See FAQs)
- Tips or gratuities are not included in Supplemental Compensation (Rule 7)
- Comes from **EMPLOYER(s)**, not City and County of San Francisco.

Supplemental Compensation Calculation Terms

- **Employment Development Department (EDD) Weekly Benefit:** amount paid to employee by EDD
 - Weekly benefit amount based on the employee's weekly wages in the EDD base period - 5 to 18 months in the past (see EDD Chart on slide 24)
- **Paid Parental Leave Ordinance (PPLO) Normal Weekly Wages**
 - Employee's salary during the week prior to leave; or
 - If weekly wages fluctuate (increase and decrease), then average of PPLO Lookback Period wages (3300H4.(b)1(B))
- **Notice of Computation:** EDD notice sent to employee that includes weekly benefit amount and claim effective date

Where is the EDD Weekly Benefit Amount?

Sample EDD Notice of Computation

EDD PAID FAMILY LEAVE
P O BOX 997017
SACRAMENTO, CA 95899-7017
Telephone No. 877-238-4373

EDD Employment Development Department
State of California

—NOTICE OF COMPUTATION—
This notice does not establish your right to benefits. State Disability Insurance or Paid Family Leave benefits are paid to you only when you meet all the conditions of eligibility.

Your Social Security Number: 00783

ALL BENEFIT PAYMENTS, IF DUE, ARE ISSUED SEPARATELY.

----- NOTICE OF COMPUTATION -----

-----> Your maximum Benefit amount is \$ 5,772.00
Your weekly Benefit amount is \$ 962.00 <-----
Your daily Benefit amount is \$ 137.42
Your claim effective date is 01/03/17
The mailing date of this Notice is 01/18/17

PROGRAM X

YOUR NAME	YOUR WAGES BY QUARTER ENDING				YOUR EMPLOYERS			
	DEC 15	MAR 16	JUNE 16	SEPT 16	NAME	ACCT NO	BR	TC
	11463.52 S	9668.88 S	13361.19 S	22727.08 S		00000000	000	01
	.00	.00	.00	.00		00000000	000	03
QTR TOTAL	11463.52	9668.88	13361.19	22727.08	TOTAL WAGES = 57220.67			

Notice of Computation contains:

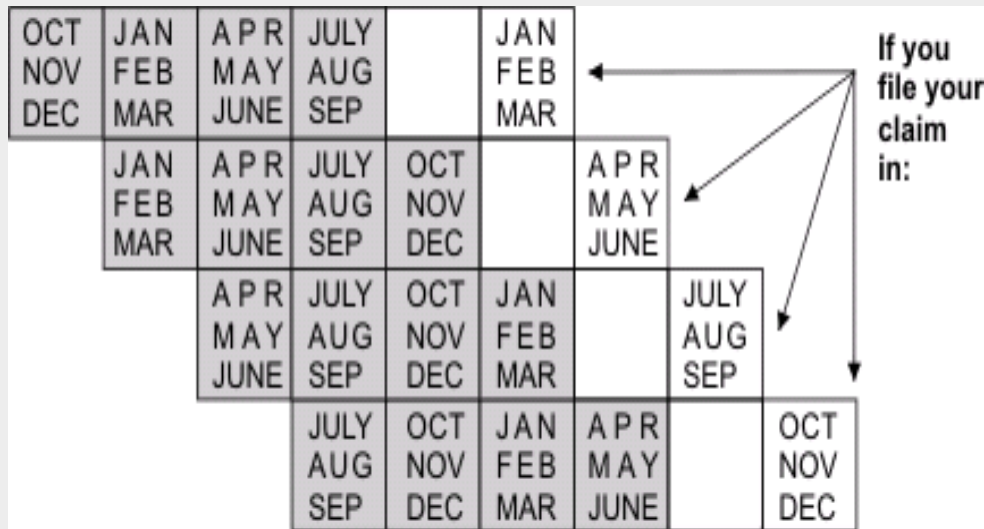
- Weekly benefit amount = \$962
- Daily amount for a 7 day week
- Quarterly, qualified wages
- Claim effective date

Electronic Benefit Payment Notice contains:

- Pay period(s) and amount
- See Rule 5.2

PAID FAMILY LEAVE: EMPLOYEE'S EDD BASE PERIOD

How EDD Determines an Employee's Base Period



- Employee's PFL benefit amount not based on current wages, but on employee's **"Base Period"** wages.
- A **"Base Period"** covers 12 months and is divided into four consecutive quarters.
- Employee's PFL benefit amount based on his/her highest quarter of earnings in the base period.
- **Will not always equal 55% or 60% of current normal weekly wages**

Calculation Example 1

Basic Calculation $A - B = C$

EDD Base Period Weekly Wage = \$1,000

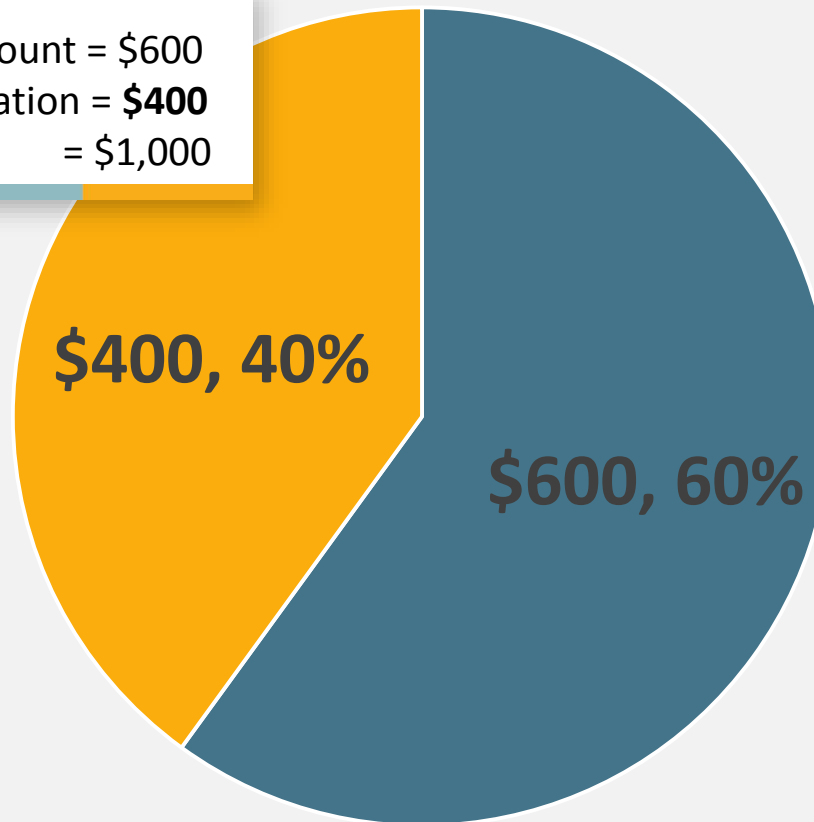
PPLO Normal Weekly Wage = \$1,000

(A) Normal Weekly Wage	\$1,000
(B) EDD Weekly Benefit	<u>- \$600</u>
(C) Weekly Supplemental Compensation	\$400

$\$400 \times 6 \text{ Weeks} = \mathbf{\$2,400}$ (total amount employer must pay to employee)

Calculation 1 Weekly Chart

EDD Weekly Benefit Amount = \$600
Supplemental Compensation = **\$400**
Total Benefit = \$1,000



Calculation Example 2

Basic Calculation $A - B = C$

EDD Base Period Weekly Wage = \$1,000

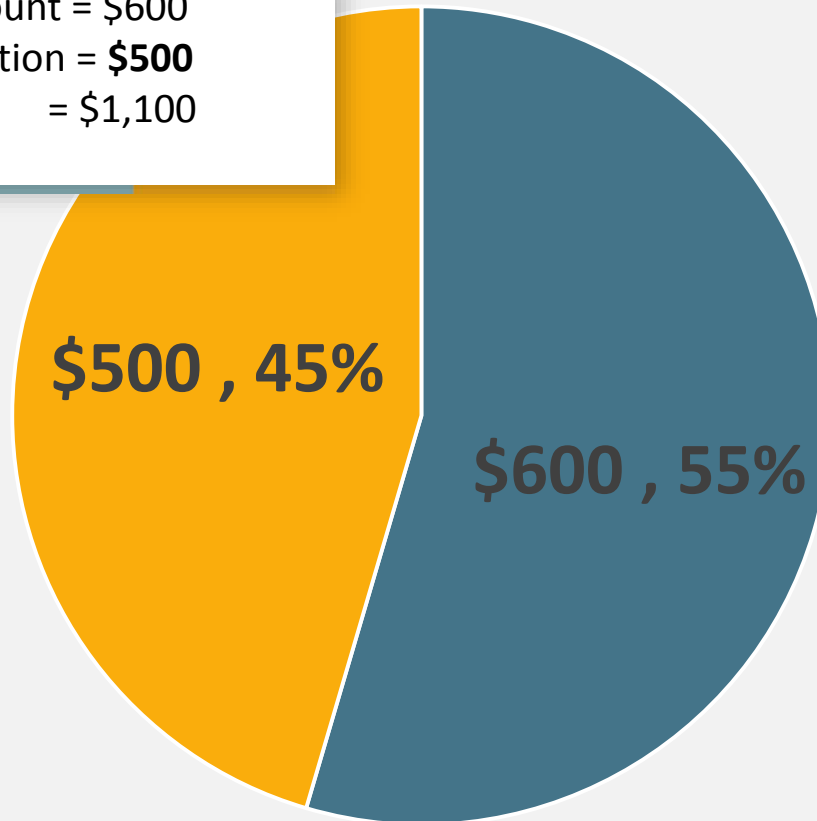
PPLO Normal Weekly Wage = \$1,100

(A) Normal Weekly Wage	\$1,100
(B) EDD Weekly Benefit	<u>- \$600</u>
(C) Weekly Supplemental Compensation	\$500

$\$500 \times 6 \text{ weeks} = \mathbf{\$3,000}$ (total amount employer must pay to employee)

Calculation 2 Weekly Chart

EDD Weekly Benefit Amount = \$600
Supplemental Compensation = **\$500**
Total Benefit = \$1,100



■ EDD
■ Employer

Calculation Example 3 – Vacation Integration

Basic Calculation $A - B = C$

EDD Base Period Weekly Wage = \$1,000

PPLO Normal Weekly Wage = \$1,100

(A) Normal Weekly Wage	\$1,100
(B) EDD Weekly Benefit	<u>- \$600</u>
(C) Weekly Supplemental Compensation	\$500

$\$500 \times 6 \text{ weeks} = \mathbf{\$3,000}$ (total amount employer must pay to employee)

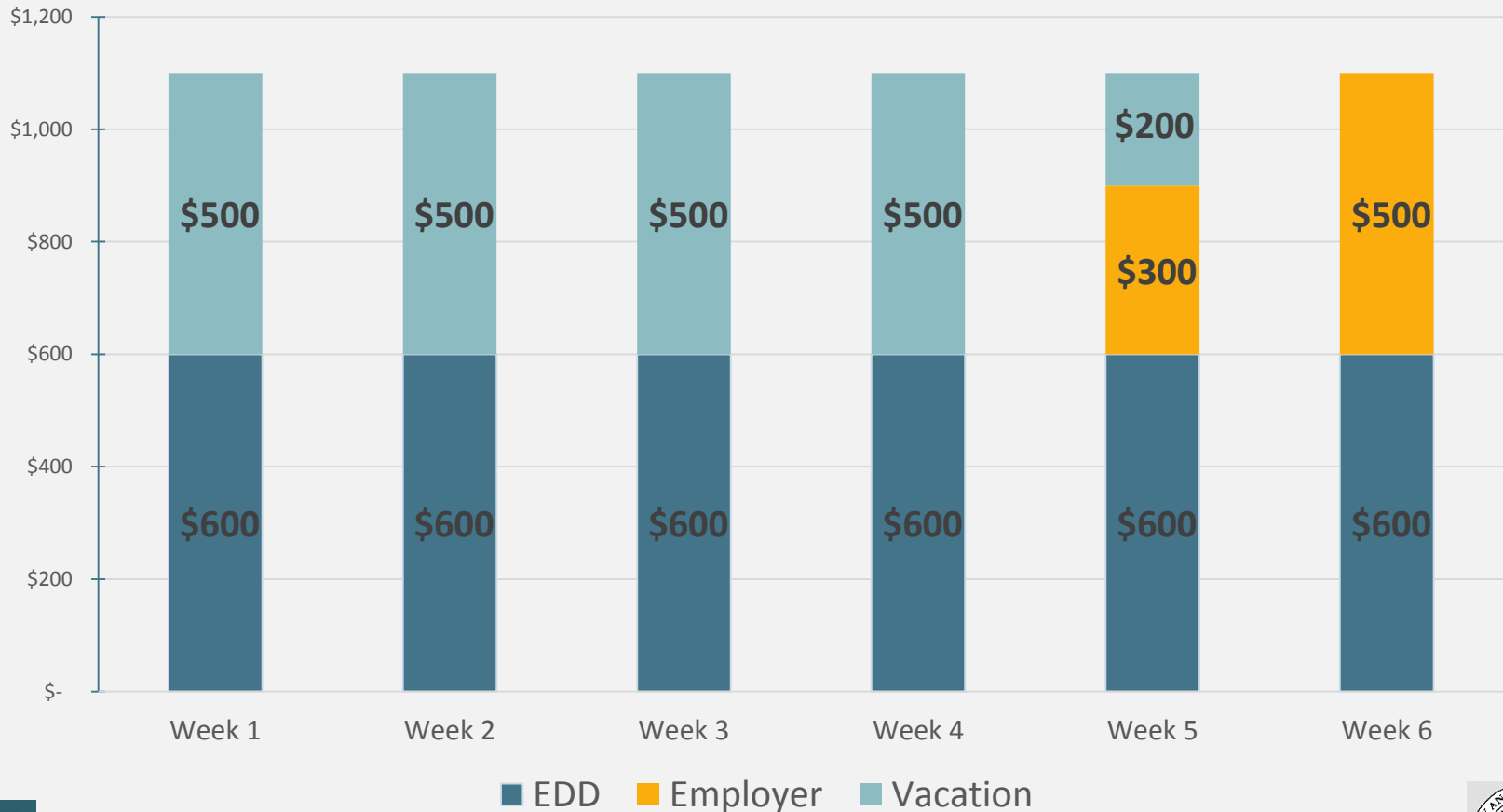
$\$2,200 = 2 \text{ weeks}$ **vacation** value (if available and employee agrees)

$\$3,000 - \$2,200 = \$800$ or actual **cost to employer** after vacation value

$\$2,200 \text{ (vacation value)} \div \$500 \text{ (weekly amount)} = \mathbf{4.4 \text{ weeks}}$ of Supplemental Compensation covered by vacation value

Calculation 3 Example Sources of Funds = \$1,100 Weekly

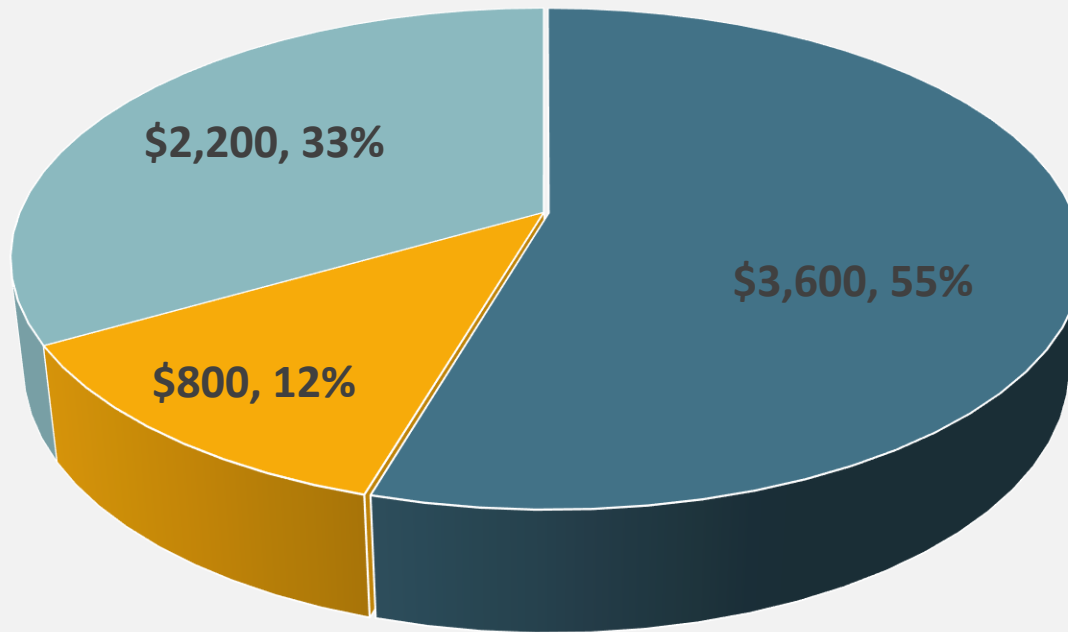
Two Weeks of Vacation Value Integrated with EDD Wage Replacement



■ EDD ■ Employer ■ Vacation

Supplemental Compensation Sources - Six Weeks

6 Weeks of Supplemental Compensation Totals by Source



■ EDD (6 wks × \$600) ■ Employer (1.6 wks × \$500) ■ Vacation (4.4 wks × \$500)

Calculation Example 4

Two Employers

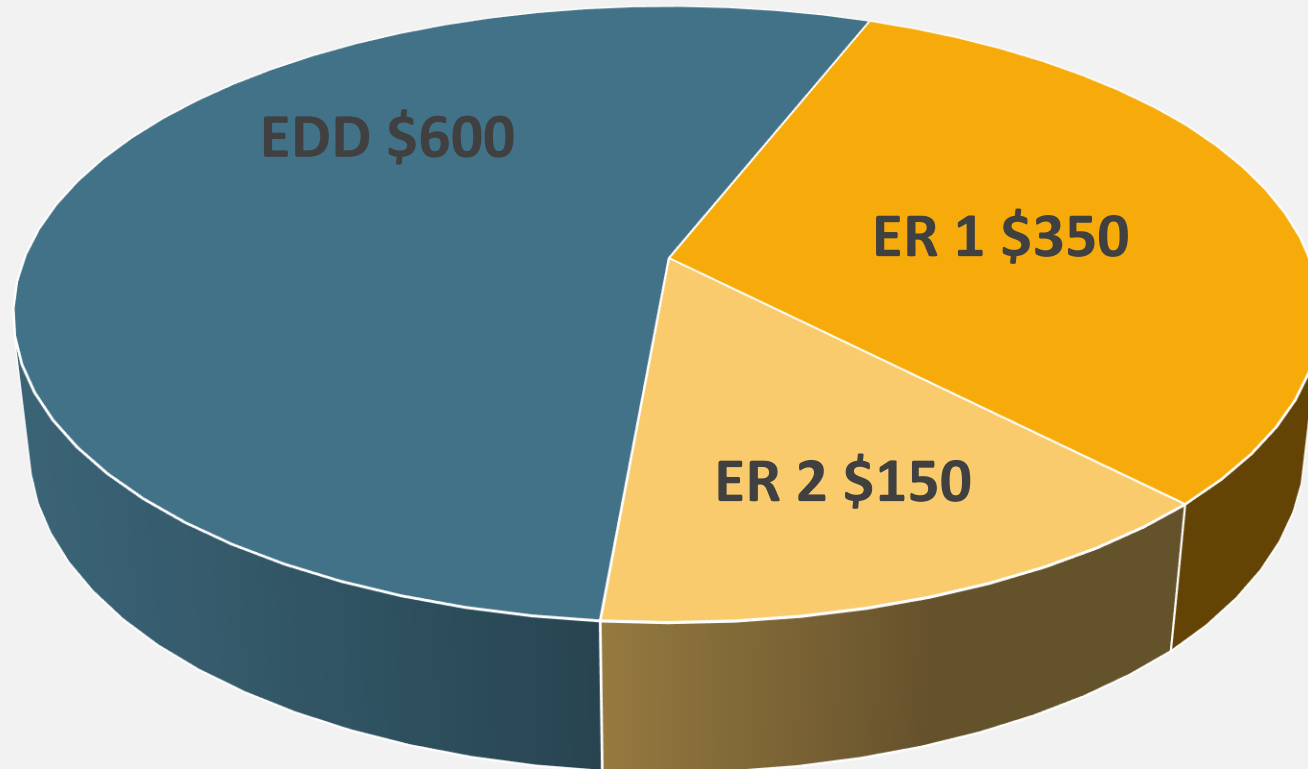
- EDD Base Weekly Wage = \$1,000
- PPLO Normal Weekly Wage = \$1,100

Each employer pays the portion of supplemental compensation corresponding to the portion of weekly wages

Weekly Wage Employer 1 (@70%)	\$770
Weekly Wage Employer 2 (@30%)	<u>+\$330</u>
Total Weekly Wage	\$1,100
EDD Weekly Wage Replacement	<u>-\$600</u>
Remainder	\$500
Employer 1 Supplemental Compensation 70% X \$500	\$350
Employer 2 Supplemental Compensation 30% X \$500	\$150

Calculation 4

Sources – Two Employers



■ EDD @60% of 1000 ■ Employer 1 @70% of 500 ■ Employer 2 @30% of 500

Calculating Normal Weekly Wages When Wages Fluctuate (with Tips)

- Example of fluctuating wages and tips over 6 bi-weekly pay periods:

Pay Period	Jun 3-16	Jun 17-30	Jul 1-14	Jul 15-28	Jul 29-Aug 11	Aug 12-25	SUM
Wages	\$1,400	\$1,000	\$900	\$1,300	\$1,500	\$1,100	\$7,200
Tips	\$1,100	\$840	\$890	\$980	\$1,210	\$980	\$6,000

Grand total: **\$13,200**

- Divide sum of \$13,200 by 12 (weeks) for normal weekly wage (\$1100)
 - Average Weekly Wages = \$600 ($\$7,200/12$)
 - Average Weekly Tips = \$500 ($\$6,000/12$)

Calculation Example 5 – Tips Single Employer

Supplemental Compensation is the percentage of Normal Weekly Wages from only wages (no tips) multiplied by the remainder

PPLO Normal Weekly Wage = \$1100 (\$600 wages + \$500 tips)

A) PPLO Normal Weekly Wage (wages and tips)	\$1,100
B) EDD Weekly Benefit	\$600
C) Remainder	\$500
D) Wages Only ÷ Normal Weekly Wage	$\$600 \div \$1100 = 55\%$
E) Supplemental Compensation = D × C	$55\% \times \$500 = \textbf{\$275}$

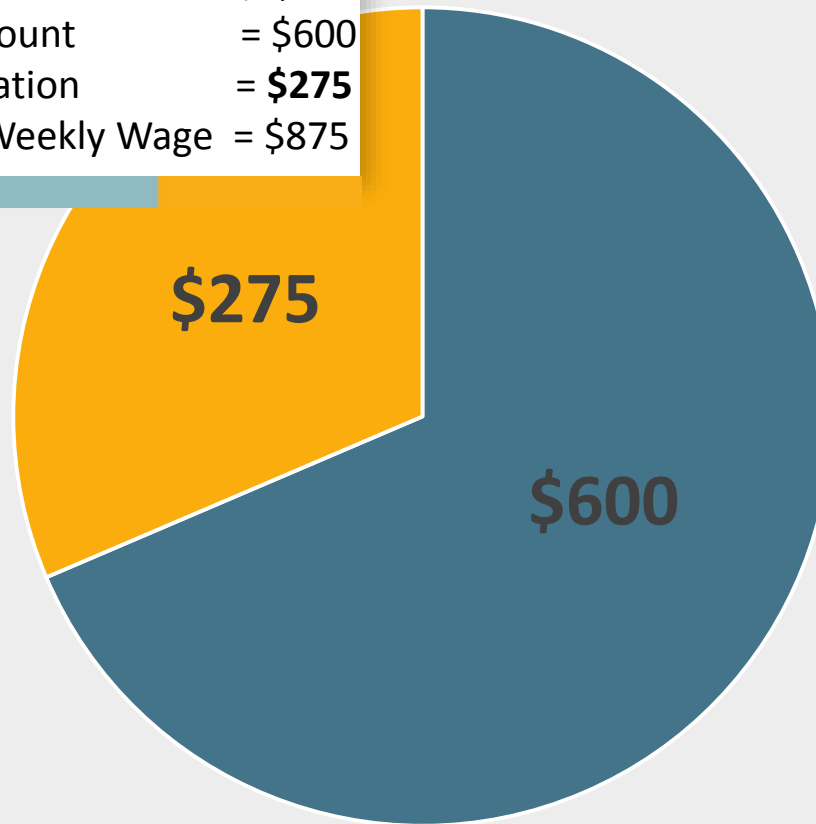
$\$275 \times 6 \text{ Weeks} = \textbf{\$1,650}$ (total amount employer must pay to employee)

Calculation 5 - Tips Weekly Chart

Normal Weekly Wage	= \$1,100
EDD Weekly Benefit Amount	= \$600
Supplemental Compensation	= \$275
Total Benefit ≠ Normal Weekly Wage	= \$875

■ EDD

■ Employer



Supplemental Compensation Notes

- Maximum weekly benefit under the Ordinance (EDD Benefit + Supplemental Compensation) is \$2,133 for 2017 and \$2,027 for 2018 (3300H.4(b)(2))
 - EDD Weekly Maximum Benefit for:
 - 2017 claim effective date =\$1,173
 - 2018 claim effective date = \$1,216
 - Employers may always pay more than the ordinance requires but not more than normal weekly wage
- If no accrued vacation or paid time off is available, the employer must still pay the full amount of supplemental compensation owed
- Retain records of supplemental compensation paid (3300H.6)

January 1, 2018 Reminders

- Employers with 20 or more employees are covered by SFPFLO
- There is no more waiting period prior to receiving PFL benefits
- Claim effective dates have different caps - 2017 (\$2,133 cap) and 2018 (\$2,027cap).
- Excel Calculators & Calculation instructions: <http://sfgov.org/pplo>
 - There is a 2017 and 2018 calculator

QUESTIONS?

Use the Q & A panel on the right side of the screen to type a question to the Host and Presenters.

This webinar will be recorded and available.

CONTACT FOR MORE INFORMATION

<http://sfgov.org/pplo>

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